

Merchant Mariner Medical Advisory Committee Bylaws

ARTICLE I AUTHORITY

As provided for in Title 46, United States Code, Section 7115, as amended by section 210 of the Coast Guard Authorization Act of 2010 (Public law 111-281), the Secretary of Homeland Security has established the Merchant Mariner Medical Advisory Committee. This committee will operate under the provisions of the *Federal Advisory Committee Act* (Title 5, United States Code, Appendix).

ARTICLE II PURPOSE

Merchant Mariner Medical Advisory Committee shall advise the Secretary on matters related to: (A) medical certification determinations for issuance of licenses, certificates of registry, and merchant mariner documents; (B) medical standards and guidelines for the physical qualifications of operators of commercial vessels; (C) medical examiner education; and (D) medical research.

ARTICLE III MEMBERSHIP AND MEMBER RESPONSIBILITIES

- Section 1. Composition. The membership will consist of 14 members, none of whom is a Federal employee, except that all members will be considered Special Government Employees (SGEs), as defined in section 202(a) of Title 18, United States Code and shall be subject to any administrative standards of conduct applicable to the employees of the department in which the Coast Guard is operating. The Committee shall have 10 members who are health-care professionals with particular expertise, knowledge, or experience regarding the medical examinations of merchant mariners or occupational medicine. The Committee shall also have four members who are professional mariners with knowledge and experience in mariners' occupational requirements.
- Section 2. Appointment. Members of the Merchant Mariner Medical Advisory Committee are appointed by and serve at the pleasure of the Secretary upon the recommendation of the Commandant of the U.S. Coast Guard. Appointments are personal to the member and cannot be transferred to another individual. Members may not designate someone to attend in their stead, participate in discussions, or vote.
- Section 3. Terms of Office. Each member shall be appointed for a term of five years, except that, of the members first appointed, three members, one professional mariner and two medical professionals, shall be appointed for a term of two years. A member appointed to fill an unexpired term serves the remainder of that term. In the event the Merchant Mariner Medical Advisory Committee terminates, all appointments to the Committee terminate.

Section 4. Certification of Non-Lobbyist Status. All members of Merchant Mariner Medical Advisory Committee must annually self-certify that they are not registered lobbyists under the *Lobbying Disclosure Act*, 2 United States Code, section 1603, and must advise the Department of Homeland Security (DHS) if they register as a lobbyist while serving on Merchant Mariner Medical Advisory Committee. Members who register as a lobbyist after their appointment or re-appointment will be replaced on the committee. Candidates for appointment must self-certify that they are not registered lobbyists under the *Lobbying Disclosure Act*. The Designated Federal Officer (DFO) will assure that candidates for appointment are not lobbyists registered under the *Lobbying Disclosure Act*.

Section 5. Members' Responsibilities. Because the membership of the Merchant Mariner Medical Advisory Committee is constructed to balance as many aspects and viewpoints of the industry as possible, member attendance and participation at meetings is vital. Members are expected to personally attend and participate at committee meetings. The Commandant of the U.S. Coast Guard shall recommend to the Secretary that any member who is unable to fulfill their responsibility be replaced on the committee.

Members of the Merchant Mariner Medical Advisory Committee may be recommended for removal for reasons such as, but not limited to:

- a. Missing two consecutive meetings, or not participating in the committee's work;
- b. Registering as a lobbyist after appointment;
- c. Engaging in activities that are illegal or violate the restrictions on members' activities as outlined below.

Section 6. Restriction on Members' Activities.

- a. Members may not use their access to the Federal Government as a member of this committee for the purpose of soliciting business or otherwise seeking economic advantage for themselves or their companies. Members may not use any non-public information obtained in the course of their duties as a member for personal gain or for that of their company or employer. Members must hold any non-public information in confidence.
- b. The committee as a whole may advise the agency on legislation or recommend legislative action. In their capacities as members of Merchant Mariner Medical Advisory Committee, individual members may not petition or lobby Congress for or against a particular legislation or encourage others to do so.
- c. Members of Merchant Mariner Medical Advisory Committee are advisors to the agency and have no authority to speak for the committee, the U.S. Coast Guard or for DHS outside the committee structure.
- d. Members may not testify before Congress in their capacity as a member of Merchant Mariner Medical Advisory Committee. If requested to testify

before Congress, members of the Merchant Mariner Medical Advisory Committee:

1. Cannot represent or speak for the committee, DHS, any agency, or the Administration in their testimony;
 2. Cannot provide information or comment on committee recommendations that are not yet publicly available;
 3. May state they are a member of the committee; and,
 4. May speak to their personal observations as to their service on the committee.
- e. If speaking outside the committee structure at other forums or meetings, the restrictions in section d. also apply.

ARTICLE IV Officials

Section 1. Chairperson and Vice Chairperson. The Secretary shall designate one of the members of the Committee as the Chair and one of the members as the Vice-Chair for a term of two years. The Vice-Chair will act as Chair in the absence or incapacity of the Chair or in the event of a vacancy in the office of the Chair. In addition to chairing Merchant Mariner Medical Advisory Committee meetings, the Chairperson shall assist the DFO (see Section 2 below) in developing meeting agendas and establishing Committee priorities. The Chairperson shall certify the accuracy of minutes within 90 days of the meeting to which they relate.

Section 2. Designated Federal Officer: The Designated Federal Officer (DFO) serves as the Department's agent for all matters related to the Merchant Mariner Medical Committee and is appointed by the Director of Inspections and Compliance. In accordance with the provisions of the FACA, the DFO must:

- a. Approve or call meetings of the committee and its subcommittees;
- b. Approve agendas for committee and subcommittee meetings;
- c. Attend all meetings;
- d. Adjourn meetings when such adjournment is in the public interest; and,
- e. Chair meetings of the committee when directed to do so by the Director of Inspections and Compliance.

In addition, the DFO is responsible for assuring administrative support functions are performed, including the following:

- a. Notifying members of the time and place of each meeting;
- b. Tracking all recommendations of the committee;
- c. Maintaining the record of members' attendance;
- d. Preparing the minutes as required of all Committee meetings, including subcommittee and working group activities;
- e. Attending to official correspondence;
- f. Maintaining official records and filing all papers and submissions prepared for or by the committee, including those items generated by subcommittees and working groups;

- g. Reviewing and updating information on committee activities in the Shared Management System (aka, FACA database) on a monthly basis;
- h. Acting as the Committee's agent to collect, validate and pay all vouchers for pre-approved expenditures; and
- i. Preparing and handling all reports, including the annual report as required by FACA.

Section 3. Alternate Designated Federal Officer: An Alternate Designated Federal Officer (ADFO) serves as an assistant to the DFO in the DFO's absence. The ADFO is Appointed by the Office Chief, Commercial Vessel Compliance (CG-CVC).

ARTICLE V MEETING PROCEDURES

Section 1. Meeting Schedule and Call of Meetings. Meetings of the Merchant Mariner Medical Advisory Committee may be held with the approval of the Designated Federal Officer; it is expected the committee will meet twice per year. Members may be reimbursed for travel and per diem and all travel for Merchant Mariner Medical Advisory Committee business must be approved in advance by the DFO. Committee meetings are open to the public unless a determination is made by the appropriate DHS official in accordance with DHS policy and directives that the meeting should be closed in accordance with Title 5, United States Code, subsection (c) of section 552b. All meetings of the Merchant Mariner Medical Advisory Committee, whether in person or teleconference, must be approved in advance by the DFO and the DFO (or Alternate DFO) must participate in each.

Section 2. Agenda. The DFO in consultation with Chairperson shall develop and approve agenda for all Committee and subcommittee meetings, distribute agenda to members prior to the meeting, and publish the agenda in *Federal Register* a minimum of 15 calendar days in advance of the meeting date.

Section 3. Quorum. A quorum of eight Committee members attending Merchant Mariner Medical Advisory Committee meeting is required to vote on issues being addressed. The DFO will determine if a quorum exists at the beginning of each meeting of the Merchant Mariner Medical Advisory Committee. If a quorum does not exist, the meeting may continue, but no action may be taken by the members present.

Section 4. Task Statements.

- a. The DFO retains sole authority for assigning all task statements to the Committee for consideration. The DFO may receive suggestions from Committee members, the public or the Agency in the formation of a task statement. It is the responsibility of the DFO to determine if the task is in accordance with the duties of the Committee as specified in the Committee's approved Charter. If, after review, the DFO determines the task is in accordance with the duties of the Committee, the DFO will place

the presentation of the assigned task on the agenda for the next meeting. The DFO shall also ensure that a copy of the assigned task is placed on the Committee website in advance of the Committee meeting to ensure the public has an opportunity to view the assigned task statement.

- b. Once new tasking has been accepted, by Committee vote, the Committee shall establish a subcommittee and vote to designate a member (or members) to serve as the subcommittee chair to prepare a formal response to the DFO for the assigned tasking. The subcommittee chair will be responsible for organizing the subcommittee, preparing minutes from the subcommittee meetings, and for presenting the subcommittee's recommendations to the Committee for formal approval.

Section 5. Voting Procedures.

- a. Any item presented to the Committee for the Committee approval must be made available to the public in advance of a Committee meeting, must be discussed by the Committee during the meeting, and must receive a majority vote for the Committee.
- b. Only Committee members present at a meeting may vote on an item under consideration. No proxy votes will be allowed. All votes must be recorded in the minutes of the meeting (or on the transcript if one is taken).
- c. Formal motions must take place when voting.

Section 6. Minutes. The DFO will prepare the minutes of each meeting and distribute copies to each committee member. Minutes of open meetings will be available on the Coast Guard's homeport website (<https://homeport.uscg.mil/mycg/portal/ep/home.do>) under Ports and Waterways → Safety Advisory Committees → Merchant Mariner Medical Advisory Committee.

The minutes will include a record of:

- a. The time, date, and place of the meeting;
- b. A list of all attendees including members, staff and the public;
- c. An accurate description of each matter discussed and the resolution, if any, made by the committee;
- d. Copies of reports or other documents received, issued, or approved by the committee; and
- e. An accurate description of public participation, including oral and written statements provided.

The DFO assures that the Chair certifies the minutes within 90 calendar days of the meeting to which they relate.

Section 7. Open Meetings. Unless otherwise determined in advance, all meetings of the Merchant Mariner Medical Advisory Committee shall be open and announced to

the public in a notice published in the *Federal Register* at least 15 calendar days before the meeting. Members of the public may attend any meeting or portion of a meeting that is not closed to the public and may offer oral comment at such meeting. If meeting materials are not provided to the public prior to the meeting with sufficient time for the public to submit written comments, meetings will include a period for oral comments unless it is clearly inappropriate to do so. Members of the public may submit written statements to the Merchant Mariner Medical Advisory Committee at any time. All materials provided to the committee shall be available to the public when they are provided to the members. Such materials, including any submissions by members of the public, are part of the meeting record.

Section 8. Closed Meetings. All or parts of meetings of Merchant Mariner Medical Advisory Committee may be closed in limited circumstances and in accordance with applicable law. No meeting may be partially or fully closed unless the component head issues a written determination that there is justification for closure under the provisions of subsection (c) of Title 5 United States Code, 552b, the *Government in the Sunshine Act* (Sunshine Act). Where the DFO has determined in advance that discussions during a committee meeting will involve matters about which public disclosure would be harmful to the interests of the government, industry, or others, an advance notice of a closed meeting, citing the applicable exemptions of the *Government in the Sunshine Act*, will be published in the *Federal Register*. The notice may announce the closing of all or just part of a meeting. If, during the course of an open meeting, matters inappropriate for public disclosure arise during discussions, the DFO or Chairman will order such discussion to cease and will schedule it for a future meeting of the committee that will be approved for closure. No meeting or portion of a meeting may be closed without prior approval and notice published in the *Federal Register* at least 15 calendar days in advance. Closed meetings can only be attended by DFO, committee members, and necessary agency staff members. Presenters must leave immediately after giving their presentations and answering any questions.

ARTICLE VI EXPENSES AND REIMBURSEMENTS

The Mariner Credentialing Program Policy Division (CG-CVC-4), United States Coast Guard is responsible for the financial support of Merchant Mariner Medical Advisory Committee.

Merchant Mariner Medical Advisory Committee members are not compensated for their services but, upon their request, may be reimbursed for travel expenses, subsistence, and accommodations as allowed by current regulations. All travel for Merchant Mariner Medical Advisory Committee business must be approved in advance by the DFO.

ARTICLE VII ADMINISTRATION

The Mariner Credentialing Program Policy Division (CG-CVC-4), United States Coast Guard, is responsible for providing clerical and administrative support to Merchant Mariner Medical Advisory Committee.

ARTICLE VIII SUBCOMMITTEES

The DFO may approve the establishment of subcommittees for any purpose consistent with Merchant Mariner Medical Advisory Committee charter. Such subcommittees may not work independently of the chartered Committee and must present their work to the Merchant Mariner Medical Advisory Committee for full deliberation and discussion. Subcommittees have no authority to make decisions on behalf of the Merchant Mariner Medical Advisory Committee and may not report directly to the Federal government or any other entity. The Chairperson may designate members of the Committee and recommend to the DFO members of the public to serve on subcommittee or working groups. The subcommittee chair shall be a Committee member.

ARTICLE IX RECORDKEEPING

The DFO is responsible for maintaining all records of the Merchant Mariner Medical Advisory Committee, formally and informally established subcommittees, and other subgroups of the Committee in accordance with General Records Schedule 26, Item 2 or other approved agency records disposition schedule. These records shall be available for public inspection and copying in accordance with the *Freedom of Information Act* (Title 5, United States Code, section 552).

ARTICLE X RECOMMENDATIONS AND REPORTING

Recommendations are discussed, amended as necessary, and voted upon at an open meeting. Upon approval by the Committee, recommendations are presented to the Coast Guard by the Committee chairman. The Coast Guard tracks all Merchant Mariner Medical Advisory Committee recommendations and advises the Committee of action taken on its recommendations at its regular semi-annual public meetings.

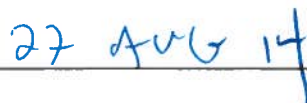
ARTICLE XI BYLAWS APPROVAL AND AMENDMENTS

The DFO may amend these bylaws at any time, and the amendments shall become effective immediately upon approval.



Kyle McAvoy, Captain, USCG
Designated Federal Officer

Date approved:



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